

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

DREW J. PELTOLA,

Petitioner,

CASE NUMBER: 11-15532
HONORABLE VICTORIA A. ROBERTS
Magistrate Judge Paul J. Komives

v.

THOMAS BIRKETT, et al.,

Respondent.

**ORDER ADOPTING MAGISTRATE'S
REPORT AND RECOMMENDATION**

On March 19, 2013, Magistrate Judge Paul J. Komives issued a Report and Recommendation (R & R) recommending that the Court deny Petitioner's application for writ of habeas corpus and deny Petitioner a certificate of appealability. Magistrate Judge Komives concluded that Petitioner failed to establish an ineffective of assistance of counsel claim under *Strickland v. Washington*, 466 U.S. 668, 687 (1984).

Under Fed. R. Civ. P. 72(b), a party must file objections to a Magistrate's R & R within fourteen (14) days after being served with a copy of the R & R. The district court must then review *de novo* any part of the Magistrate's recommendation that is properly objected to. Fed. R. Civ. P. 72(b)(3).

The time for filing objections to the R & R has passed; neither party objected. Aside from there being no objection, the Court twice made failed attempts to serve Petitioner with a copy of the R&R. On April 9, 2013, and again on April 26, 2013, the

Court mailed Petitioner a copy of the Magistrate's R&R, each time the R&R was returned as undeliverable.

There are two grounds for dismissal: (1) adoption of the Magistrate's R&R which recommends dismissal and (2) failure to prosecute. See *Thomas v. Arn*, 474 U.S. 140, 149-50 (1985) (a district court need not review a magistrate judge's recommended disposition when no objections to that recommendation are filed).

Petitioner's claim is also dismissed for failure to prosecute; see also *Watsy v. Richards*, 816 F.2d 683, 1987 WL 37151, at *1 (6th Cir. 1987) (unpublished table decision) (affirming dismissal for failure to prosecute where appellant failed to provide district court with "current address necessary to enable communication with him").

The Court **ADOPTS** the R&R; Petitioner's application for writ of habeas corpus and certificate of appealability are **DENIED**. Petitioner's application is **DISMISSED**.

IT IS ORDERED.

S/Victoria A. Roberts
Victoria A. Roberts
United States District Judge

Dated: June 12, 2013

The undersigned certifies that a copy of this document was served on the attorneys of record and Drew J. Peltola by electronic means or U.S. Mail on June 12, 2013.

S/Linda Vertriest
Deputy Clerk